

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED

IN RE: DONALD E. WARREN
ARKANSAS BAR No. 99007
CPC DOCKET No. 2007-128

MAY 27 2008

**LESLIE W. STEEN
CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee through information obtained by the Office of Professional Conduct from the syllabus of the Arkansas Court of Appeals. The information related to the representation of Virgil Williams by Donald E. Warren in 2006 and 2007.

Donald E. Warren, Sr., Attorney at Law, Pine Bluff, Arkansas, represented Virgil Williams in a civil suit filed in Pulaski County Circuit Court, Case No. CV2006-12327, in which Mr. Williams accused Stephanie Higginbotham of negligence in operation of a motor vehicle which resulted in injuries to Mr. Williams. On May 17, 2007, a jury found in favor of Mr. Williams in the amount of \$20,000. A judgment reflecting the jury's decision was entered on May 31, 2007. Mr. Williams took exception to the judgment and filed a notice of appeal on June 11, 2007. The notice of appeal, however, listed case number, CV-222-12, a different legal matter in which Mr. Williams had filed a voluntary non-suit. On August 8, 2007, Mr. Warren, after having realized the error, filed an Amended Notice of Appeal but listed the correct case number, CV2006-12327.

Rule 5(a) of the Rules of Appellate Procedure—Civil, requires that the record on appeal be filed with the clerk of the Arkansas Supreme Court and docketed therein within 90 days from the filing of the first notice of appeal, unless the time is extended by order of the circuit court. No

extension was granted following the filing of the notice of appeal. As the *first* notice of appeal was filed on June 11, 2007, the record of lower court proceeding was to be filed on or before September 9, 2007. Mr. Warren tendered the record to the Arkansas Supreme Court Clerk on September 17, 2007, and the Clerk refused to accept the record as it was not timely received.

On September 17, 2007, Mr. Warren filed a Motion for Rule on the Clerk. The Appellee filed a Response to the Motion for Rule on the Clerk on September 21, 2007. In addition, the Appellee filed a Motion to Dismiss. On October 4, 2007, the Arkansas Supreme Court issued a letter order denying Mr. Warren's Motion for Rule on the Clerk.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Donald E. Warren, Sr.'s conduct violated Rule 1.3 when he failed to timely file the record of the lower court proceedings on behalf of his client, Virgil Williams, in the case of Williams v. Higginbotham, Pulaski County Circuit Court Case No. CV06-12327. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Donald E. Warren, Sr.'s conduct violated Rule 8.4(d) when his failure to file the record of the lower court proceedings on behalf of his client, Virgil Williams, resulted in his client's appeal being dismissed and required the Court to expend additional time and effort which would not have been necessary otherwise. Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that DONALD E. WARREN,

Arkansas Bar ID No. 99007, be, and hereby is, CAUTIONED for his conduct in this matter and assessed costs in the amount of FIFTY DOLLARS (\$50.00). The fine and costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A

By: Steven Shults
Steven Shults, Chair

Date: January 28, 2008